

TITLE 10
ISSUES, TRIAL AND JUDGMENT IN CIVIL ACTIONS

CHAPTER 12
DECLARATORY JUDGMENTS

10-1201. DECLARATORY JUDGMENTS AUTHORIZED -- FORM AND EFFECT. Courts of record within their respective jurisdictions shall have power to declare rights, status, and other legal relations, whether or not further relief is or could be claimed. No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect, and such declarations shall have the force and effect of a final judgment or decree.

[10-1201, added 1933, ch. 70, sec. 1, p. 113.]

10-1202. PERSON INTERESTED OR AFFECTED MAY HAVE DECLARATION. Any person interested under a deed, will, written contract or other writings constituting a contract or any oral contract, or whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status or other legal relations thereunder.

[10-1202, added 1933, ch. 70, sec. 2, p. 113.]

10-1203. CONSTRUCTION OF CONTRACTS. A contract may be construed either before or after there has been a breach thereof.

[10-1203, added 1933, ch. 70, sec. 3, p. 113.]

10-1204. REPRESENTATIVES AND PERSONS BENEFICIALLY INTERESTED -- RIGHT TO DECLARATION. Any person interested as or through an executor, administrator, trustee, guardian or other fiduciary, creditor, devisee, legatee, heir, next of kin, or cestui que trust, in the administration of a trust, or of the estate of a decedent, an infant, a person with a mental disability or insolvent, may have a declaration of rights or legal relations in respect thereto;

(a) To ascertain any class of creditors, devisees, legatees, heirs, next of kin or other; or

(b) To direct the executors, administrators or trustees to do or abstain from doing any particular act in their fiduciary capacity; or

(c) To determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings.

[10-1204, added 1933, ch. 70, sec. 4, p. 113; am. 2010, ch. 235, sec. 4, p. 546.]

10-1205. ENUMERATION NOT A LIMITATION. The enumeration in Sections [10-1202](#), [10-1203](#) and [10-1204](#), does not limit or restrict the exercise of the general powers conferred in Section [10-1201](#), in any proceedings where

declaratory relief is sought, in which a judgment or decree will terminate the controversy or remove an uncertainty.

[10-1205, added 1933, ch. 70, sec. 5, p. 113.]

10-1206. WHEN COURT MAY REFUSE JUDGMENT OR DECREE. The court may refuse to render or enter a declaratory judgment or decree where such judgment or decree, if rendered or entered, would not terminate the uncertainty or controversy giving rise to the proceeding.

[10-1206, added 1933, ch. 70, sec. 6, p. 113.]

10-1207. REVIEW OF ORDERS, JUDGMENTS AND DECREES. All orders, judgments and decrees under this Act may be appealed from or reviewed as other orders, judgments and decrees.

[10-1207, added 1933, ch. 70, sec. 7, p. 113.]

10-1208. FURTHER RELIEF ON PETITION -- SHOWING BY ADVERSE PARTY. Further relief based on a declaratory judgment or decree may be granted whenever necessary or proper. The application therefor shall be by petition to a court having jurisdiction to grant the relief. If the application be deemed sufficient, the court shall, on reasonable notice, require any adverse party whose rights have been adjudicated by the declaratory judgment or decree, to show cause why further relief should not be granted forthwith.

[10-1208, added 1933, ch. 70, sec. 8, p. 113.]

10-1209. ISSUES OF FACT -- TRIAL AND DETERMINATION. When a proceeding under this act involves the determination of an issue of fact, such issue may be tried and determined in the same manner as issues of fact are tried and determined in other actions at law or suits in equity in the court in which the proceeding is pending.

[10-1209, added 1933, ch. 70, sec. 9, p. 113.]

10-1210. COSTS. In any proceeding under this act the court may make such award of costs as may seem equitable and just.

[10-1210, added 1933, ch. 70, sec. 10, p. 113.]

10-1211. PARTIES TO ACTION -- MUNICIPAL ORDER OR FRANCHISE. When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding. In any proceeding which involves the validity of a municipal ordinance or franchise, such municipality shall be made a party, and shall be entitled to be heard, and if the statute, ordinance or franchise is alleged to be unconstitutional, the attorney general of the state shall also be served, and be entitled to be heard and may intervene.

[10-1211, added 1933, ch. 70, sec. 11, p. 113; am. 1983, ch. 129, sec. 1, p. 325; am. 1998, ch. 235, sec. 1, p. 792.]

10-1212. CONSTRUCTION OF ACT. This act is declared to be remedial; its purpose is to settle and to afford relief from uncertainty and insecurity with respect to rights, status and other legal relations, and is to be liberally construed and administered.

[10-1212, added 1933, ch. 70, sec. 12, p. 113.]

10-1213. "PERSON" DEFINED. The word "person" wherever used in this act, shall be construed to mean any person, partnership, joint stock company, unincorporated association or society, or municipal or other corporation of any character whatsoever.

[10-1213, added 1933, ch. 70, sec. 13, p. 113.]

10-1214. SEPARABILITY -- EXCEPTION. The several sections and provisions of this act, except Sections [10-1201](#) and [10-1202](#), are hereby declared independent and severable, and the invalidity, if any, of any part or feature thereof shall not affect or render the remainder of the act invalid or inoperative.

[10-1214, added 1933, ch. 70, sec. 14, p. 113.]

10-1215. CONSTRUCTION TO EFFECTUATE UNIFORMITY. This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of these [those] states which enact it, and to harmonize, as far as possible, with federal laws and regulations on the subject of declaratory judgments and decrees.

[10-1215, added 1933, ch. 70, sec. 15, p. 113.]

10-1216. SHORT TITLE. This act may be cited as the Uniform Declaratory Judgment Act.

[10-1216, added 1933, ch. 70, sec. 16, p. 113.]

10-1217. DECLARATORY JUDGMENT OF LEGAL DEATH. The court has the authority through a declaratory judgment to determine that a person who is absent, and who has not been heard from, is legally dead. In making such determination, the court may, at any time, consider all evidence available, and may rule, based on clear and convincing evidence before it, that the person is dead, or that there is insufficient evidence to so rule.

[I.C., sec. 10-1217, as added by 1974, ch. 32, sec. 1, p. 985.]